

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

OMAR SEGURA,

Plaintiff,

v.

MALDONADO, *et al.*,

Defendants.

Case No. 1:23-cv-00780-JLT-BAM (PC)

ORDER DENYING DEFENDANT'S  
MOTION TO REVOKE *IN FORMA*  
*PAUPERIS* STATUS AS MOOT  
(ECF No. 18)

ORDER GRANTING PLAINTIFF'S  
APPLICATION TO PROCEED *IN FORMA*  
*PAUPERIS* AS A NON-PRISONER  
(ECF No. 23)

ORDER DIRECTING DEFENDANT  
COELHO TO FILE RESPONSE TO FIRST  
AMENDED COMPLAINT WITHIN **THIRTY**  
**(30) DAYS**

Plaintiff Omar Segura ("Plaintiff") is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Coelho<sup>1</sup> and John Doe <sup>12</sup> for excessive force in violation of the Eighth Amendment.

On December 8, 2023, Defendant Coelho filed a motion to revoke Plaintiff's *in forma pauperis* status on the ground that Plaintiff has been released from custody since initiating this action, and that now that he is no longer incarcerated, he must file an updated affidavit to proceed

<sup>1</sup> Erroneously sued as "Cohello."

<sup>2</sup> Defendant John Doe 1 has not yet been identified or served.

1 *in forma pauperis* as a non-prisoner or pay the filing fee. (ECF No. 18.) The Court stayed  
2 briefing on the motion to revoke and directed Plaintiff to file a non-prisoner application to  
3 proceed *in forma pauperis*. (ECF No. 21.) Plaintiff filed the completed application on December  
4 26, 2023. (ECF No. 23.) The Court finds that responses to Plaintiff's application to proceed *in*  
5 *forma pauperis* and Defendant's motion to revoke Plaintiff's *in forma pauperis* status are  
6 unnecessary, and the motions are deemed submitted. Local Rule 230(l).

7 Upon review of Plaintiff's renewed *in forma pauperis* application, the Court finds that  
8 Plaintiff has demonstrated that he remains unable to afford the costs of this action as a non-  
9 prisoner. Specifically, Plaintiff states that he is not currently employed, and he was last employed  
10 in 2011. He does not receive money from any other sources, and his only asset is an automobile  
11 worth \$500.00. Plaintiff lists two children dependent on him for support. The application is  
12 signed under penalty of perjury. (ECF No. 23.)

13 Based on the foregoing, the application to proceed *in forma pauperis* as a non-prisoner is  
14 granted. Defendant Coelho's motion to revoke Plaintiff's *in forma pauperis* status based solely  
15 on Plaintiff's release from custody, is therefore denied as moot. The Court further resets the  
16 deadline for Defendant Coelho to file a response to the first amended complaint.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Defendant Coelho's motion to revoke Plaintiff's *in forma pauperis* status, (ECF No. 18),  
19 is DENIED as moot;
- 20 2. Plaintiff's motion to proceed *in forma pauperis*, (ECF No. 23), is GRANTED; and
- 21 3. Within **thirty (30) days** from the date of service of this order, Defendant Coelho is  
22 DIRECTED to file a response to the first amended complaint.

23  
24 IT IS SO ORDERED.

25 Dated: January 8, 2024

26 /s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE  
28